

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

3 UNITED STATES OF AMERICA,) Case 1:24-cr-141
4 Plaintiff,)
5 v.) Alexandria, Virginia
6 ROBERT WESLEY ROBB,) June 21, 2024
7 Defendant.) 2:33 p.m.
8) Pages 1 - 46

9 TRANSCRIPT OF PLEA HEARING AND
10 MOTION TO RELEASE FROM CUSTODY AFTER ENTRY OF PLEA
11 BEFORE THE HONORABLE ANTHONY J. TRENGA
12 UNITED STATES DISTRICT COURT JUDGE

13 APPEARANCES:

14 FOR THE PLAINTIFF:

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19 FOR THE DEFENDANT:

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23 THE DEFENDANT, ROBERT WESLEY ROBB, IN PERSON
24

25 COMPUTERIZED TRANSCRIPTION OF STENOGRAPHIC NOTES

1 P R O C E E D I N G S

2 THE COURTROOM DEPUTY: Criminal Case
3 No. 1:24-cr-141, *United States v. Robert Wesley Robb*.

4 Counsel, will you please note your
5 appearances for the record.

6 MS. BEDELL: Good afternoon, Your Honor.
7 It's Zoe Bedell and Katherine Rumbaugh for the United
8 States.

9 THE COURT: Good afternoon.

10 MS. RIGBY: Good afternoon, Your Honor. Ann
11 Mason Rigby on behalf of Mr. Robb, who is present.

12 THE COURT: All right. I understand we're
13 here for a pre-indictment plea based on a plea
14 agreement and statement of facts and also Mr. Robb's
15 motion for release pending sentencing.

16 MS. RIGBY: Yes, Your Honor, that's correct.

17 THE COURT: All right. Mr. Robb, would you
18 come to the podium and be sworn, please.

19 (The defendant affirms.)

20 THE COURT: Would you state your full name,
21 please.

22 THE DEFENDANT: Robert Wesley Robb.

23 THE COURT: Mr. Robb, the purpose of this
24 hearing is to give you the opportunity to enter a
25 guilty plea to the charge of wire fraud. If you enter

1 such a plea, it will be the responsibility of this
2 Court to ensure that your plea is being entered
3 voluntarily, that is, that no one is forcing you to
4 enter that plea against your will and that your plea is
5 not being entered in exchange for any promises or
6 agreements except those in your plea agreement.

7 The Court also has the responsibility to
8 ensure that your plea is entered knowingly, that is,
9 that you understand the consequences of pleading
10 guilty.

11 In order for the Court to make those
12 determinations, I'm going to ask you a series of
13 questions. And for that purpose, you've been placed
14 under oath. Having been placed under oath, you have
15 the obligation to answer all of the Court's questions
16 truthfully. If any of your answers prove to be untrue,
17 you may be subjecting yourself to additional criminal
18 penalties, including those for perjury based on the
19 responses you give here in court today.

20 Do you understand that?

21 THE DEFENDANT: Yes, Your Honor.

22 THE COURT: What is your age?

23 THE DEFENDANT: Forty-six.

24 THE COURT: And what is your highest level of
25 formal education?

1 THE DEFENDANT: Some college.

2 THE COURT: You read, write, and understand
3 the English language?

4 THE DEFENDANT: Yes.

5 THE COURT: And you're a citizen of the
6 United States?

7 THE DEFENDANT: Yes.

8 THE COURT: And you've been represented by a
9 lawyer in connection with this charge; is that correct?

10 THE DEFENDANT: Yes.

11 THE COURT: Have you met with your lawyer?

12 THE DEFENDANT: I have.

13 THE COURT: Has your lawyer explained to you
14 the charge against you and what the government must
15 prove in order to convict you of that charge?

16 THE DEFENDANT: Yes, Your Honor.

17 THE COURT: Has your lawyer explained to you
18 the consequences of pleading guilty?

19 THE DEFENDANT: Yes.

20 THE COURT: Have you provided to your lawyer
21 all the facts and information you know that may relate
22 to this charge?

23 THE DEFENDANT: Yes.

24 THE COURT: And have you discussed with your
25 lawyer any possible defenses you might have and what

1 would be required to prove those defenses?

2 THE DEFENDANT: Yes.

3 THE COURT: Have you understood everything
4 your lawyer has told you?

5 THE DEFENDANT: Yes.

6 THE COURT: Have you had all your questions
7 answered to your satisfaction?

8 THE DEFENDANT: Yes, Your Honor.

9 THE COURT: Have you had any difficulty
10 understanding anything your lawyer has told you,
11 anything about the charge against you, or anything
12 about the nature of these proceedings, including why
13 you're in court here today?

14 THE DEFENDANT: No.

15 THE COURT: Have you been satisfied with the
16 services of your lawyer?

17 THE DEFENDANT: Yes.

18 THE COURT: Do you think you've had enough
19 time to meet with your lawyer and discuss whether or
20 not you should be entering a guilty plea at this point
21 in the proceedings?

22 THE DEFENDANT: Yes.

23 THE COURT: Have you been under the influence
24 of any drugs or medication or any other substance
25 that's affected your ability to understand anything

1 your lawyer has told you, anything about the charge
2 against you, or anything about these proceedings?

3 THE DEFENDANT: No.

4 THE COURT: Ms. Rigby, based on everything
5 you know, is Mr. Robb competent to enter a guilty plea
6 here today?

7 MS. RIGBY: Yes.

8 THE COURT: Do you understand that the charge
9 to which you would plead guilty is wire fraud?

10 THE DEFENDANT: Yes.

11 THE COURT: And do you understand that by
12 pleading guilty, you will be convicted of that charge
13 just as if you had gone to trial on a plea of not
14 guilty and were convicted by a jury?

15 THE DEFENDANT: Yes.

16 THE COURT: Has your lawyer explained to you
17 the maximum punishment you could receive based on the
18 conviction that would result from your guilty plea?

19 THE DEFENDANT: Yes.

20 THE COURT: The maximum punishment you could
21 receive is a term of imprisonment of up to 20 years, a
22 fine of up to \$250,000, forfeiture of any
23 offense-related assets, restitution with respect to any
24 victim losses, a special assessment of \$100 that will
25 be imposed, and a period of supervised release of at

1 least 3 years. Do you understand that's the maximum
2 punishment you could receive?

3 THE DEFENDANT: Yes, Your Honor.

4 THE COURT: I've mentioned supervised release
5 as a possible term of a sentence. Supervised release,
6 if imposed, will begin after you've completed any term
7 of imprisonment. It would have certain conditions that
8 you would have to satisfy. And if you failed to
9 satisfy those conditions, you could be imprisoned for
10 all or a portion of your period of supervised release
11 even if you had successfully completed a portion of it.
12 Do you understand the nature of supervised release?

13 THE DEFENDANT: Yes.

14 THE COURT: Also, we've abolished parole
15 within the federal system. So you will, in fact, serve
16 the full length of any term of imprisonment subject
17 only to a reduction of up to 15 percent based on good
18 behavior. Do you understand that?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: I understand that you have
21 entered into a written plea agreement. Is that
22 correct?

23 THE DEFENDANT: Yes.

24 THE COURT: Do you have that document in
25 front of you?

1 THE DEFENDANT: Yes.

2 THE COURT: Does your signature appear on
3 that document?

4 THE DEFENDANT: It does.

5 THE COURT: And you signed that document?

6 THE DEFENDANT: I did.

7 THE COURT: Did you read that document?

8 THE DEFENDANT: Yes.

9 THE COURT: Did you have all your questions
10 answered to your satisfaction about that document?

11 THE DEFENDANT: Yes.

12 THE COURT: Did you understand everything in
13 that document?

14 THE DEFENDANT: I did.

15 THE COURT: Did anyone threaten you or try to
16 influence you in any way into signing that written plea
17 agreement against your will?

18 THE DEFENDANT: No, Your Honor.

19 THE COURT: Is this written plea agreement
20 the entire agreement you think you have with the United
21 States government?

22 THE DEFENDANT: Yes.

23 THE COURT: Do you think you have any other
24 promises, agreements, or understandings in exchange for
25 your guilty plea that's not in this written plea

1 agreement?

2 THE DEFENDANT: No.

3 THE COURT: If you were to go to trial and if
4 after that trial you were convicted, you would have the
5 right to appeal that conviction and any sentence to a
6 higher court. Under this plea agreement, you waive,
7 that is, you give up your right of appeal both as to
8 the conviction that would result from your guilty plea,
9 as well as any sentence imposed. Do you understand
10 that you've waived your right of appeal under this plea
11 agreement?

12 THE DEFENDANT: Yes, Your Honor.

13 THE COURT: Have you discussed with your
14 lawyer whether or not you should waive your right of
15 appeal?

16 THE DEFENDANT: Yes.

17 THE COURT: Also, under this plea agreement,
18 the government agrees to make certain recommendations.
19 Those are only recommendations. They're not binding on
20 the Court. Only the Court will decide what sentence to
21 impose in this case. Do you understand that?

22 THE DEFENDANT: Yes.

23 THE COURT: Also, under this plea agreement,
24 you agree to the entry of a restitution order with
25 respect to any victim losses. Do you understand that?

1 THE DEFENDANT: Yes.

2 THE COURT: Do you also understand that
3 you've agreed to the entry of a forfeiture order with
4 respect to any offense-related assets and to have that
5 forfeiture order entered without any constitutional or
6 procedural protections? Do you understand that?

7 THE DEFENDANT: Yes.

8 THE COURT: Have you discussed with your
9 lawyer the rights you have as somebody charged with a
10 crime and that you would give up these rights by
11 pleading guilty?

12 THE DEFENDANT: Yes, Your Honor.

13 THE COURT: You have the absolute right to
14 proceed to a trial on a plea of not guilty before a
15 jury of 12 United States citizens. Do you understand
16 that?

17 THE DEFENDANT: Yes.

18 THE COURT: In order to convict you of this
19 charge, that jury must unanimously find you guilty. Do
20 you understand?

21 THE DEFENDANT: Yes.

22 THE COURT: You have a right to be
23 represented by a lawyer at that trial and at every
24 other stage of the proceedings. If you could not
25 afford one, one would be appointed for you. Do you

1 understand that?

2 THE DEFENDANT: Yes, Your Honor.

3 THE COURT: Also, you have the right during
4 trial to confront any witnesses that the government may
5 present and to challenge the admissibility of any
6 evidence the government may offer. Do you understand
7 that?

8 THE DEFENDANT: Yes.

9 THE COURT: You also have the right to
10 present your own defense. That would include the right
11 to require any person with relevant information to be
12 brought into trial and testify and to bring with him or
13 her any documents relevant to this charge. Do you
14 understand that?

15 THE DEFENDANT: Yes.

16 THE COURT: You also have the right, as part
17 of your defense, to testify yourself. You could take
18 that witness stand, be placed under oath, and testify
19 subject to cross-examination. You would have
20 absolutely no obligation to testify. You could remain
21 silent in the face of this charge, and if you decided
22 not to testify, the government could not force you to
23 testify or to incriminate yourself in any way. Do you
24 understand that?

25 THE DEFENDANT: Yes.

1 THE COURT: Also, if you made the decision
2 not to testify, no inference of guilt could be inferred
3 from the fact that you decided not to testify. You
4 would continue to be presumed innocent of this charge,
5 and the government would continue to have the
6 obligation of proving each and every element of this
7 charge beyond a reasonable doubt. Do you understand
8 that?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: As I mentioned earlier, if after
11 that trial you were convicted, you would have the right
12 to appeal that conviction and any sentence to a higher
13 court. Do you understand that?

14 THE DEFENDANT: Yes.

15 THE COURT: By pleading guilty, there will be
16 no trial in this case, and all that would be left for
17 the Court to do would be to decide what sentence to
18 impose. Do you understand that?

19 THE DEFENDANT: Yes.

20 THE COURT: Having heard all of these rights
21 that you have and that you would give up all of these
22 rights by pleading guilty, is it still your decision to
23 enter a guilty plea here today?

24 THE DEFENDANT: Yes, Your Honor.

25 THE COURT: In addition to all of these

1 rights you will be giving up, there will be other
2 collateral consequences of your pleading guilty,
3 including the forfeiture of any right you might have to
4 vote, hold public office, serve on a jury, or possess a
5 firearm. Do you understand that?

6 THE DEFENDANT: Yes.

7 THE COURT: You also have one other very
8 valuable constitutional right, and that is the right to
9 have this charge brought against you by way of what we
10 call an indictment, which is issued by what we call a
11 grand jury.

12 A grand jury consists of up to 23 United
13 States citizens. In order to issue an indictment, at
14 least 16 members of that grand jury must meet, hear
15 evidence from the government, and at least 12 members
16 of that grand jury must decide there's probable cause
17 to believe you committed this crime.

18 That grand jury, after hearing the
19 government's evidence, may issue an indictment, but
20 it's possible they would decide not to issue an
21 indictment. And if they decided not to issue an
22 indictment, the government could not bring this charge
23 against you.

24 Do you understand that?

25 THE DEFENDANT: Yes, Your Honor.

1 THE COURT: You have the absolute right to
2 insist on an indictment. You also have the right to
3 waive an indictment and allow the government to
4 proceed, as they are doing here today, by way of what
5 we call a criminal information.

6 A criminal information is not an indictment.
7 It's simply a piece of paper that was prepared in the
8 U.S. Attorney's Office listing this offense. No grand
9 jury has heard evidence. No grand jury has made any
10 probable cause finding.

11 Have you discussed with your lawyer whether
12 or not you should waive a grand jury in this case?

13 THE DEFENDANT: Yes.

14 THE COURT: And have you decided to waive
15 indictment in this case?

16 THE DEFENDANT: Yes.

17 THE COURT: Have you signed a waiver of
18 indictment form?

19 THE DEFENDANT: Yes, Your Honor.

20 THE COURT: Do you have that document in
21 front of you?

22 THE DEFENDANT: I do.

23 THE COURT: Your signature appears on that
24 document, and you signed that document; is that
25 correct?

1 THE DEFENDANT: Yes, Your Honor.

2 THE COURT: Did you read, understand, and
3 have all your questions answered about that document?

4 THE DEFENDANT: Yes.

5 THE COURT: Did anyone threaten you or try to
6 influence you in any way into signing that waiver
7 against your will?

8 THE DEFENDANT: No.

9 THE COURT: Counsel, based on everything you
10 know, is Mr. Robb competent to waive a grand jury in
11 this case?

12 MS. RIGBY: Yes, Your Honor.

13 THE COURT: Let the record reflect that based
14 on the responses of this defendant and the
15 representations of counsel for the defendant, the Court
16 finds and concludes that the defendant is competent to
17 waive a grand jury and that he has knowingly and
18 voluntarily done so.

19 Have you discussed with your lawyer how the
20 Court will go about deciding what sentence to impose in
21 this case?

22 THE DEFENDANT: Yes.

23 THE COURT: Have you discussed what we call
24 the sentencing guidelines and how they pertain to you
25 and your offense?

1 THE DEFENDANT: We have.

2 THE COURT: As that name suggests, those are
3 only guidelines. They're not binding on the Court.
4 The Court may impose a guideline sentence, or it may
5 impose a sentence greater than the guidelines or less
6 than the guidelines obligated only to impose a sentence
7 within the maximum punishments that I've described to
8 you. Do you understand that?

9 THE DEFENDANT: Yes, Your Honor.

10 THE COURT: Also, the Court is not going to
11 be able to finally decide what the guideline sentence
12 is until after it receives a presentence report, that
13 you and your lawyer and the government has had an
14 opportunity to review and object to any information in
15 that report. Do you understand that?

16 THE DEFENDANT: Yes.

17 THE COURT: In addition to the guidelines,
18 the Court is going to consider a whole range of other
19 factors, including the nature and seriousness of this
20 offense, your own personal history and characteristics,
21 and generally what sentence will be sufficient but no
22 more than necessary to constitute a just punishment and
23 to protect the public. Do you understand those are the
24 kinds of considerations the Court is going to take into
25 account?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: Also, as I mentioned earlier, the
3 Court is not going to be bound by any recommendations.
4 So if you receive a sentence that is different than
5 what the government recommends or that your lawyer
6 recommends or if you receive a sentence that is
7 different than someone told you you're likely to
8 receive or that you're expecting or if you receive a
9 sentence that you just think is unfair in some way, you
10 nevertheless are going to be bound by your guilty plea,
11 and you will not be permitted to withdraw your guilty
12 plea after you hear what the sentence is. Do you
13 understand that?

14 THE DEFENDANT: Yes, Your Honor.

15 THE COURT: In a moment, I'm going to ask the
16 government to tell the Court what evidence it would
17 present against you if this case were to go to trial.
18 I want you to listen very carefully to what the
19 government tells the Court. Because when the
20 government is done, I'm going to ask you whether you
21 disagree with anything the government has told the
22 Court about your conduct.

23 Have a seat for a moment. We'll hear from
24 the government.

25 MS. BEDELL: Your Honor, the United States

1 and the defendant agree that the United States would
2 have proven the following facts at trial beyond a
3 reasonable doubt with admissible and credible evidence:

4 Beginning in or around November 22 and
5 continuing through in and around March 2024, in the
6 Eastern District of Virginia and elsewhere, the
7 defendant, Robert Wesley Robb, did knowingly devise and
8 intend to devise a scheme and artifice to defraud
9 investors and to obtain money and property by means of
10 materially false and fraudulent pretenses,
11 representations, and promises and for the purpose of
12 executing the scheme and artifice to defraud knowingly
13 transmitted and caused to be transmitted by means of
14 wire communications in interstate commerce certain
15 writings, signs, signals, and sounds, in violation of
16 Title 18, United States Code, Section 1343.

17 Specifically, on or about October 27, 2023,
18 the defendant, using an electronic device located
19 outside the Commonwealth of Virginia, transmitted a
20 message via the Internet to Investor A, an
21 individual --

22 (Reporter clarification.)

23 MS. BEDELL: -- to Investor A, an individual
24 located in the Eastern District of Virginia --

25 I apologize. I will try to slow down.

1 On or around September 4, 2023, using an
2 electronic device, Robb posted in his Friend.Tech chat
3 using the Internet, advertising an opportunity to
4 invest in a Maximum Extractable Value cryptocurrency
5 trading bot. Robb invited individuals that had 100 to
6 200,000 plus sitting around and who wanted to
7 participate in some next-level MEV stuff to send him a
8 direct message to learn more. A screenshot containing
9 Robb's representations on Friend.Tech is included in
10 the statement of facts.

11 On or about September 7, 2023, Investor A
12 sent a direct message to Robb's X account and discussed
13 the opportunity to invest in the MEV bot.

14 Robb explained to Investor A how the MEV bot
15 would work, how Investor A's investment would be used
16 as capital by the MEV bot to trade cryptocurrency,
17 i.e., not to fund Robb's personal expenses, and how the
18 origin of Investor A's investment must be obfuscated
19 and how Robb and Investor A would split profits.
20 Further, Robb described the MEV bot as capable of
21 delivering very high returns and assured Investor A
22 that this was a low-risk investment. Additionally,
23 Robb insisted that Investor A must invest within a day
24 or two because he expected the bot to be operational
25 soon, like early next week. Screenshots reflecting

1 these conversations are included within the statement
2 of facts.

3 On Telegram, Robb provided Investor A a
4 virtual currency address to send his initial \$100,000
5 investment. On or about September 8, 2023, Robb
6 sent -- Investor A sent to Robb approximately \$100,000.
7 On September 26 and 27 and October 2, the funds
8 provided by Investor A were transferred into Robb's
9 Coinbase account from which he was then able to
10 transfer funds to his traditional bank account.

11 In the days between September 8 and
12 September 26 and in the weeks and months that followed,
13 Robb repeatedly promised Investor A that the MEV bot
14 would be launched shortly and then subsequently
15 provided multiple excuses for why the MEV bot had not
16 yet launched. At no point did Robb reveal to
17 Investor A that he had used Investor A's funds and/or
18 other investors' funds to fund his personal expenses.

19 On or about October 27, 2023, Robb told
20 Investor A that a new investor was interested in making
21 a \$300,000 investment in the MEV bot. He told
22 Investor A that such an investment would dilute
23 Investor A's profits, so he was giving Investor A the
24 chance to make an additional investment in the MEV bot,
25 which he said would also insulate Investor A even

1 further by spreading out the small risk profile
2 associated with the bot. This was false because Robb
3 had already spent Investor A's previous investment on
4 personal expenses. So an additional investment would
5 not and could not dilute any profits or insulate
6 Investor A in any way. And further deposits from
7 Investor A would, at best, serve to replace funds Robb
8 had misused and thereby conceal Robb's misuse of
9 Investor A's initial investment.

10 Robb also told Investor A the MEV bot would
11 launch in the next week or so.

12 On or about October 28, 2023, Investor A sent
13 an additional \$50,000 to an Ethereum virtual currency
14 address provided by Robb.

15 On or around November 8, 2023, Investor A
16 requested a refund from Robb because they had not
17 received any returns or evidence that Robb had created
18 a MEV bot. Robb provided multiple excuses for why he
19 could not immediately refund Investor A. Despite Robb
20 repeatedly promising his refund by various dates,
21 Investor A never received a refund from Robb, nor
22 profits from the MEV bot.

23 The government's investigation identified
24 more than ten investors in Robb's scheme alleging
25 losses totaling more than \$2.2 million. The investor

1 complaints include allegations of misrepresentations,
2 material omissions, and misuse of investor funds for
3 personal expenses similar to the misrepresentations and
4 omissions previously discussed.

5 The earliest reported complaint is from
6 Investor B, who received a message from Robb in
7 October 2022 seeking an investment. From in and around
8 November 2022 to June 2023, Investor B invested a total
9 of approximately \$514,000 with Robb. Through its own
10 review of financial records and interviews with
11 investors, the FBI has identified at least \$1.5 million
12 in funds that is either confirmed or believed were from
13 investors.

14 Despite Robb's representations to investors
15 claiming investor funds will be used as trading capital
16 for the MEV bot, the investor funds were funneled to
17 virtual currency exchange accounts and traditional bank
18 accounts held in Robb's name and not used as trading
19 capital for the MEV bot.

20 Contrary to Robb's promises that the funds
21 would be used to invest or otherwise in connection with
22 the MEV bot, the vast majority of the funds were, in
23 fact, used to pay for personal expenses, including
24 airline tickets, vacations, gambling, cars, and other
25 luxury items. Several examples of specific expenses

1 are included in the statement of facts.

2 At no point before or after investors decided
3 to send him money did Robb inform current or
4 prospective investors that he used investors' money to
5 fund personal expenses or that he would do so.

6 This statement of facts includes only those
7 facts necessary to support the plea agreement and does
8 not include every fact known to the defendant or the
9 United States.

10 THE COURT: Would you come to the podium,
11 please, Mr. Robb.

12 Do you disagree with anything the government
13 has told the Court about your conduct?

14 THE DEFENDANT: No, Your Honor.

15 THE COURT: I understand you've also signed a
16 written statement of facts. Is that correct?

17 THE DEFENDANT: Yes.

18 THE COURT: Do you have that document in
19 front of you?

20 THE DEFENDANT: I do.

21 THE COURT: Your signature appears on that
22 document, and you signed that document; is that
23 correct?

24 THE DEFENDANT: Yes, Your Honor.

25 THE COURT: Did you read, understand, and

1 have all your questions answered about that written
2 statement of facts?

3 THE DEFENDANT: Yes.

4 THE COURT: Did anyone threaten you or try to
5 influence you in any way into signing that written
6 statement of facts against your will?

7 THE DEFENDANT: No, Your Honor.

8 THE COURT: Are the statements in that
9 written statement of facts true and correct?

10 THE DEFENDANT: Yes.

11 THE COURT: And is it your decision to enter
12 a guilty plea here today because you're, in fact,
13 guilty of what you've been charged with?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: Ms. Bedell, based on everything
16 you know, is there an adequate basis for the plea in
17 this case?

18 MS. BEDELL: Yes, Your Honor.

19 THE COURT: Before pleading to the criminal
20 information, would you like to speak with your lawyer
21 any further?

22 THE DEFENDANT: No, Your Honor.

23 THE COURT: With respect to the charge of
24 wire fraud, in violation of Title 18, United States
25 Code, Section 1343, how do you plead? Guilty or not

1 guilty?

2 THE DEFENDANT: Guilty.

3 THE COURT: Let the record reflect based on
4 the responses of this defendant to the Court's
5 questions, representations of counsel for the
6 government and for the defendant, it's the finding of
7 this Court in the case of *United States v. Robert*
8 *Wesley Robb* that the defendant is fully competent and
9 capable of entering an informed plea, that the
10 defendant is aware of the nature of the charges and the
11 consequences of the plea, and that the plea of guilty
12 is a knowing and voluntary plea supported by an
13 independent basis in fact containing each of the
14 essential elements of the offense. The plea is
15 therefore accepted, and the defendant is now adjudged
16 guilty of that offense.

17 Ms. Robb, I'm not going to sentence you
18 today. I'm going to set this matter down for
19 sentencing on September 11 at 9:00 a.m. in this
20 courtroom.

21 Between now and then, you will have the
22 opportunity to be interviewed by a representative of
23 pretrial services and probation. That will be an
24 opportunity for you to share with that office and,
25 through that office, this Court any information you

1 think will be helpful to the Court in deciding what an
2 appropriate sentence is, and you may be accompanied by
3 your lawyer during that interview.

4 All right. Why don't you have a seat for a
5 moment.

6 MS. RIGBY: Your Honor, two things. The
7 parties would like to hand up the information to which
8 Mr. Robb just pled guilty. It has one change to the
9 one submitted to chambers. So we wanted to make sure
10 the correct one was filed.

11 THE COURT: All right.

12 MS. RIGBY: Just for the record, the only
13 thing that was changed was that the forfeiture notice
14 included a specific reference to a stadium suite, and
15 that's been removed.

16 THE COURT: All right.

17 MS. RIGBY: So with the assistance of the
18 court security officer, I'll hand that up just to make
19 sure the right one is filed.

20 THE COURT: All right.

21 (A document is passed up to the Court.)

22 MS. RIGBY: Your Honor, having conferred with
23 government counsel about their schedules, I would ask
24 the Court if a later date could be set only -- I have a
25 very complicated tax sentencing that week --

1 THE COURT: For the sentencing?

2 MS. RIGBY: Yes, Your Honor.

3 -- followed by a fraud one the next week. I
4 apologize.

5 THE COURT: All right.

6 MS. RIGBY: If there were any way to move it
7 to October --

8 THE COURT: I could do it October 2.

9 MS. RIGBY: I would make that work, Your
10 Honor.

11 THE COURT: All right, October 2.

12 MS. RIGBY: Okay.

13 THE COURT: Mr. Robb, I've rescheduled the
14 sentencing hearing for October 2.

15 All right. The defendant has also filed a
16 motion for release pending sentencing, essentially an
17 appeal from Judge Fitzpatrick's detention order. I've
18 reviewed the briefing.

19 Ms. Rigby, do you want to represent anything
20 further on this?

21 MS. RIGBY: I do, Your Honor.

22 THE COURT: Yes.

23 MS. RIGBY: First, I want to especially
24 stress that some of the information in the government's
25 opposition -- please let me know if the Court can't

1 hear me. I wanted to address some of the new
2 information in the government's opposition, Your Honor.

3 THE COURT: All right.

4 MS. RIGBY: As the Court knows, government
5 counsel filed Exhibit 1. I want to stress this was not
6 provided until after we filed the motion. I think the
7 Court can tell from the exhibit itself that the
8 information came in on June 20, the same date that I
9 filed the motion.

10 I had asked for the basis for the
11 government's assertions earlier that Mr. Robb had made
12 threats, and that is how I came to Exhibits 2 and 3 to
13 my motion and to my understanding of the scope of
14 anything related or similar to threats.

15 Government counsel had affirmed that they
16 were not aware of any threats to other's physical
17 safety at the time we spoke on June 20, I think. And
18 now all of a sudden this comes in. Now, I just want to
19 make sure that the Court understands I was not holding
20 back on that, number one.

21 THE COURT: I understand.

22 MS. RIGBY: And number two, Your Honor, I
23 think the timing of it is relevant to how much weight
24 it should be given. I, frankly, think there's a good
25 deal of reason to doubt what's in that email from this

1 witness. Number one, it's secondhand, and I think the
2 government sort of acknowledges that by putting it in
3 the footnote, right. So this witness is saying that
4 another person told them that Mr. Robb had made a
5 threat to kill this witness and his mother. So
6 secondhand first of all.

7 Secondly, that the person allegedly reporting
8 this, I will note for the Court, is a convicted felon.
9 He has been convicted in federal court of uttering
10 counterfeit securities. He's been convicted in state
11 court of several fraudulent acts, such as passing bad
12 checks. He's been trespassed from casinos. He's been
13 sued. He's sued everybody else. He's been banned from
14 casinos in at least one state that I know of,
15 Pennsylvania, and that's a public record, Your Honor.

16 I don't believe he claims to be a victim of
17 this scheme, but he has been very intent on going after
18 Mr. Robb and helping the government make their case,
19 possibly to protect his own interests, Your Honor. We
20 don't know.

21 So number one -- or I should say number two,
22 the source of this is highly suspect. Secondly, the
23 witness himself claims he heard this several months
24 before Mr. Robb was arrested. I don't recall the exact
25 date that this witness was interviewed by the FBI, but

1 he was interviewed by the FBI. It is very hard to
2 believe that if he had what he considered a credible
3 threat against his own life and his mother's that he
4 did not report that until June 20, the day that
5 Mr. Robb asked for release again. So I would ask the
6 Court to take that into consideration.

7 And in the end -- again, he says this is
8 several months before Mr. Robb was arrested. There is
9 no evidence whatsoever that Mr. Robb actually took any
10 step to act on any supposed threat to this witness or
11 his mother or anybody else.

12 This witness also forwarded along a snippet
13 of a text that he attributes to Mr. Robb. I don't know
14 where it comes from. I don't know the context.
15 Mr. Robb does not specifically recall making it.

16 All of that, Your Honor, I think is reason to
17 give it little weight. But the text itself, Your
18 Honor, says -- I forgot what it says -- something about
19 stomping on this person, who is the witness who sent
20 that email in Exhibit 1, Your Honor.

21 He says he's going to do this LOL. I'm sure
22 the Court is familiar that. That means "laugh out
23 loud." So I think that suggests that it was not
24 serious as does the fact that it does not seem to have
25 been reported until June.

1 So coupled with the fact, again, Your Honor,
2 that Mr. Robb has not taken any steps to actually try
3 to harm anybody, I would ask the Court to give all of
4 this sudden information very little weight.

5 Your Honor, the government also points to a
6 jail call and says that Mr. Robb admitted on a recorded
7 phone call he is now careful to not be so explicit, of
8 course, referring to the fact that he was alleged to
9 have made threats in the past.

10 I asked government counsel what call that
11 was. I listened to it again today. The context is --
12 first of all, that's not a quote at all. Secondly,
13 that call was Mr. Robb explaining to his sister that a
14 prosecutor in Nevada had said in court that he had
15 threatened people in this case, in this context
16 presuming. And he was very upset about it, and he was
17 strenuously denying that that's what he had done. It
18 was not in any way suggesting, as I think this
19 opposition does, "Hey, listen, don't worry. I'm
20 careful about how I make my physical threats." He was
21 saying, "I have not made any physical threats at all."

22 He said, "I was very careful. Ever since my
23 last thing" -- referring to his old case -- "I have
24 never threatened anyone." That's what he said, Your
25 Honor. He was not suggesting that he's covering for --

1 he's not making veiled threats. He's denying that he
2 makes physical threats against people.

3 And again, Your Honor, no matter what he
4 said, no matter what he said in chats -- we all know we
5 will say a lot of things online that we will not
6 actually do. There's no evidence whatsoever that he's
7 ever actually tried to harm anybody physically.

8 Second, Your Honor -- and I will move on --
9 the conditions we propose would ensure he does not
10 present a threat to anybody, physically or otherwise.

11 The serious conduct, the government
12 reiterates that he has pled guilty. We understand
13 that. These are serious allegations. He's admitted
14 that. All of that is true, but that's not the question
15 before the Court. The question is whether he will be a
16 danger or abscond before sentencing under the
17 conditions we propose, and he will not be able to do
18 that under the conditions we propose, Your Honor.

19 I understand he will be punished. He
20 understands that. He's agreed to recommend a certain
21 sentence. But until that time, he has a right to be at
22 liberty if there are conditions that can ensure the
23 safety of the community -- and we believe there are --
24 and that can assure he will reappear. We believe there
25 are.

1 Really, the government has no response to the
2 evidence that since 2005, Mr. Robb has not violated any
3 conditions or to the fact that when he did violate
4 conditions when he was on supervised release 20 years
5 ago, which was a very long time ago, he wasn't under
6 any of the kind of conditions that we're proposing.

7 No matter what the government can say about
8 him -- they can say he has confessed to committing a
9 fraud recently. They can't say that there's evidence
10 of willful or of any violations of court orders in
11 going on 20 years.

12 And, Your Honor, I just would -- I'm not
13 going to repeat everything in the motion. I know the
14 Court has read that.

15 THE COURT: I have read it.

16 MS. RIGBY: Thank you, Your Honor.

17 But the last thing I would say is that his
18 sister is a perfectly good third-party custodian. I
19 did not ask for -- I don't know exactly where the
20 quotes come from where she's saying this is unfair,
21 this is ridiculous, or whatever she's saying. I will
22 say in the call I listened to again today where
23 Mr. Robb is upset about what's happening in the bond
24 hearings, she doesn't make comments like that.

25 So I suspect -- I don't know -- that she may

1 have been responding to that, and I know that's been a
2 continuing concern for Mr. Robb. So very likely she's
3 been responding to that going on and that concern being
4 that he has been misrepresented as making physical
5 threats about people, which he denies.

6 Further, Your Honor, sympathetic responses to
7 somebody sitting in a jail cell does not mean that she
8 will not abide by the Court's requirements of a
9 third-party custodian. Everything else about her
10 character suggests that she will.

11 And if she is sympathetic to Mr. Robb, she
12 will understand, as does he, that the best thing he can
13 do for himself is follow the conditions, show that he
14 can do that, come back to court, do no further harm,
15 and get the best sentence he can.

16 And so, Your Honor, I think she's a perfectly
17 good third-party custodian. I don't think these
18 sympathetic remarks should weigh heavily in the Court's
19 consideration.

20 And for all the reasons in the motion, we do
21 ask that the Court release Mr. Robb.

22 THE COURT: All right. Thank you.

23 Ms. Bedell.

24 MS. BEDELL: Your Honor, this is the
25 defendant's third attempt at release. As Judge

1 Fitzpatrick noted, the defendant's history, his
2 pattern, the strength of the evidence all counseled in
3 favor of keeping him detained. That was when the
4 government had the burden. Since then, the only thing
5 that has changed is that the burden has shifted and
6 that Mr. Robb has now pled guilty to the charge.

7 We outline our key arguments in the brief,
8 but there are a few points I wanted to elaborate on.

9 As we mentioned -- obviously, you're very
10 familiar with the facts having just gone through the
11 statement of facts. I mentioned in the brief that the
12 fraud was ongoing at the time of his arrest. So he did
13 not abandon his criminal conduct out of the goodness of
14 his heart.

15 I also wanted to highlight that Mr. Robb at
16 the time was beginning to solicit funds for a new
17 investment. Now, the government hasn't been focused on
18 this investment, but it did follow a lot of the
19 patterns that we see in the present case, which was
20 that he had made a lot of promises about how fast a new
21 token would be coming out and how much money everyone
22 could make. But the difference was until right at the
23 end, he wasn't actually soliciting investments for
24 that. So we do have significant concerns that he has
25 multiple schemes going out there; though, again, that

1 has not been the focus of our investigation given the
2 limited funds he solicited from investors to this
3 point.

4 As you're aware, this is his third
5 conviction. All of these prior convictions are for
6 fraud. The magistrate judge in Nevada noted the
7 similarity between the conduct at issue here and the
8 conduct at issue in his past convictions except that
9 the defendant was getting more sophisticated. There's
10 no indication, Your Honor, that he has learned his
11 lesson despite the time that has passed.

12 His prior experience on supervised release is
13 also highly informative and has been a significant
14 concern for both of the magistrates who hear this to
15 date. Judge Fitzpatrick found a complete inability on
16 willingness to comply with orders of the court in the
17 past and an abysmal failure when he was on supervised
18 release for the first time.

19 Now, he has not had a supervised release
20 violation since 2005, but he, I think, only spent about
21 six months on supervised release after being released
22 from his second term of incarceration for the offense.

23 During his first unsuccessful period of
24 supervised release, though, he left the district
25 without approval. He did not notify his officer about

1 a change of residence. He failed to report to
2 probation, and he absconded. Most notably, he
3 committed his other fraud offense while on supervised
4 release for his first fraud offense.

5 Since then, he has no stable employment. He
6 has had limited other income, some of which is of
7 questionable legitimacy. He had no stable home. He
8 was hopping from casino to casino and gambling while
9 being comped for hotel rooms. We believe he may still
10 have access to vehicles and other assets that he could
11 sell for cash.

12 I do want to address the threats as well.
13 Judge Fitzpatrick was correct in noting that Mr. Robb
14 did make explicit threats to victims. This is similar
15 to prior offenses. Now, at the time, neither the
16 government nor Judge Fitzpatrick were aware of explicit
17 threats of violence, and I don't believe that's what
18 anyone's argument was about at the time. But the
19 suggestion that these other threats were simply about a
20 lawsuit or is really an incredible claim, Mr. Robb was
21 acting erratically claiming that investors were
22 conspiring to murder him. He told investors that he
23 can, quote, track you even if they were trying to
24 conceal their identity. And these are people operating
25 online under monikers.

1 He says that he knows their names, that he
2 knows where they live. He sent an investor his own
3 address. When that happens, someone who is interacting
4 with a convicted criminal who has stolen their money
5 does not first think, oh, he must be trying to serve me
6 a subpoena. That is, of course, not how the investors
7 in this case understood those threats either.

8 One victim said that he believed Mr. Robb
9 was, in fact, trying to intimidate him, and another
10 victim understood these as a veiled threat. Again,
11 that's just referring to the address and name and
12 saying, "I know where you live and who you are."

13 Now, he did make explicit threats to sue
14 investors. Frankly, the investors did not react with
15 particular concern about those threats because, of
16 course, the idea that the guy who is scamming you is
17 going to sue you, it's not really the scariest threat.
18 But they were concerned about his erratic behavior and
19 his strange paranoia and the threats that were veiled
20 threats about knowing where they live.

21 Since then, we have learned about this
22 additional information, this threat from an investor --
23 excuse me, a threat received by an investor. Ms. Rigby
24 is correct. We were speaking with a victim yesterday
25 who was exercising his right to consult with the

1 government when he was learning about the plea and had
2 questions. He mentioned that he was interested in the
3 outcome of today's detention hearing because if Mr Robb
4 was released, he was interested in seeking a
5 restraining order. I asked what the basis for that
6 concern was, and this is the email that we received
7 detailing it.

8 So, you know, the threats on the investor and
9 his mother's life, we don't have the direct proof for
10 that. That is several layers of hearsay. But what it
11 does do is explain some of the context in which the
12 investors would have been hearing these threats.

13 I left this out when I read the statement of
14 facts, but PokerBrat2019 is one of the defendant's
15 acknowledged monikers that he used online. It's clear
16 these texts come from that.

17 If you compare the background and the little
18 symbol that's used for these texts, it's the same as in
19 the statement of facts. So suddenly disclaiming -- I
20 have no idea where these came from. Because I don't
21 remember it, it means I must not have done it. That's
22 simply not credible when this is supported by the
23 statement of facts.

24 And do I believe that Mr. Robb was literally
25 intending to curb-stomp an investor? No. I think

1 there was some degree of posturing there. But again,
2 he is threatening violence, and that certainly provides
3 the context for when he makes statements like, "We can
4 track you. I can track you, and I know where you
5 live."

6 I do also want to address the conditions of
7 release. This is a crime, it's clear, that can be
8 committed from home sitting in your sister's basement,
9 and it's extremely easy for defendants, particularly
10 sophisticated defendants, to procure devices.

11 I have a defendant who lives in rural Maine
12 who keeps getting devices, and he hides them under a
13 tree. We see this regularly with child exploitation
14 defendants. Electronic monitoring is only after the
15 fact and only works for devices that the government and
16 probation knows about.

17 He has no meaningful ties to the community
18 beyond his sister. He has not lived there. He doesn't
19 seem to have any other meaningful relationships with
20 his relatives there. And while his sister is no doubt
21 a very nice person, she does appear to have fallen
22 victim to Mr. Robb's, frankly, self delusion and his
23 manipulative behavior.

24 When you listen to these jail calls, he is
25 going on to anyone who will listen, including his

1 sister, about how everyone but him is responsible. So
2 the prosecutors are lying. He wasn't just upset that
3 the prosecutors had accused him of making threats. He
4 was upset that they had lied because, of course, it had
5 to be lie. He was upset that the FBI had been lying
6 and the affidavit was full of lies. Everyone is out to
7 ruin his life. I can't remember if it was the
8 prosecutors to be honest with the agents, but they're
9 evil in carnet. At one point, he said, "Basically, I'm
10 being persecuted for my last case 20 years ago.
11 There's no evidence."

12 And the sister falls for this. She believes
13 he is the victim. This is so unfair. This is so
14 unfair. I don't know why they're picking on you. This
15 is ridiculous. This is so unfair. It's so
16 unbelievable. Why are you doing this to my brother?
17 It's so wrong. It's not your fault. It's unfair. You
18 had no problems in 16 years, and then all of a sudden
19 they arrest you.

20 It's clear that those messages are across two
21 different days. Those conversations are from two
22 different days. It's not just reacting to allegations
23 of threats. Now, I will say that Mr. Robb's
24 brother-in-law does appear to be somewhat more
25 skeptical of Mr. Robb's claims, but he is not home

1 during the day. And I don't think that that is a
2 sufficient deterrent on supervision to ensure that he
3 does not access devices or otherwise pose a risk to the
4 community.

5 Unless there are other questions, Your Honor,
6 I'll rest on our briefing.

7 THE COURT: All right. Ms. Rigby.

8 MS. RIGBY: Just a few brief responses, Your
9 Honor.

10 First, I would ask the Court to consider not
11 just what the magistrate judges found in two prior
12 proceedings but what is before the Court today. There
13 are several things that are different today. The first
14 of those -- or I'd say one of the most important is
15 that the record is now more complete and clear than it
16 was for either of those judges. In particular, with
17 regard to this threat issue.

18 And second, although Mr. Robb fully
19 understands, his exposure is the same. The government
20 has now agreed to cap their recommendation. That, of
21 course, is going to weigh on him just as it would if
22 there were not one. That's a fact of life. That's
23 very practical and true.

24 Your Honor, in terms of whether he was
25 continuing anything up until the time of his arrest or

1 anything else that he did in the past, that was not
2 when he was under the conditions that we're proposing.

3 I don't know what the facts were of these
4 cases where this guy is hiding it under the tree. I
5 don't know if he has a third-party custodian. I don't
6 know if he has location monitoring. I don't know if
7 the court banned devices altogether. We don't know any
8 of the details of those cases. I'm not familiar with
9 that many child exploitation defendants getting out on
10 bond in the first place.

11 The question before the Court is would this
12 particular third-party custodian in rural Nevada on
13 seven acres far away from town -- she's an LDS member.
14 She's going to be home all day long. Her husband is
15 going to be home in the evening. She's going to lock
16 up her devices. She's going to hold her keys. The
17 question is under all of those circumstances, is
18 Mr. Robb likely to reoffend or threaten anybody or do
19 anything. Our position is he is not.

20 So I'm not going to address every single
21 little thing. That is the issue: Can the conditions
22 do the trick? We believe they can.

23 Thank you.

24 THE COURT: All right. Thank you.

25 The defendant has filed a motion for release

1 pending sentencing pursuant to Section 3143,
2 essentially appealing the magistrate judge's decision
3 to detain Mr. Robb. This proceeding is a *de novo*
4 consideration of the evidence that's presented to the
5 Court.

6 The one difference, obviously, is that the
7 burden has shifted. Mr. Robb has now pled guilty,
8 which from a sentencing perspective evidences an early
9 acceptance of responsibility. But nevertheless, for
10 the purposes of determining whether he should be
11 released pending sentencing, it does shift the burden
12 to the defendant to establish by clear and convincing
13 evidence that he is not likely to flee or pose a danger
14 to the safety of any other person or the community.

15 The Court has reviewed the record both before
16 the magistrate judge and also as that record has
17 changed or been expanded upon in this court. The Court
18 has reviewed the defendant's submissions and its
19 response to the evidence that was presented before the
20 magistrate judge.

21 In determining whether or not the defendant
22 has met his burden, the Court has considered an entire
23 range of factors, including the defendant's own
24 criminal history, his prior supervised release
25 violations and revocation, his mental health issues

1 that have been put in the record, but also the
2 disposition for any continued criminal activity and the
3 extent to which the proposed conditions could
4 effectively restrain any possible activity in that
5 regard.

6 The Court has also considered the location of
7 the proposed home confinement and the issues that may
8 associate with that, as well as the defendant's
9 connection to that. But more generally, the ability of
10 any conditions to effectively restrain the defendant
11 from engaging in any kinds of activity that would
12 constitute a danger to the community or establish some
13 ability on his part to not appear.

14 Without indicating whether or not the Court
15 were to reach the same decision as the magistrate
16 judge, the issue here is whether the evidence is clear
17 and convincing. The Court simply can't conclude, based
18 on this record, by clear and convincing evidence that
19 the defendant is not likely to flee or pose a danger to
20 the safety of any other person or the community based
21 on the conditions proposed. Therefore, the Court is
22 going to deny the motion. The defendant will remain
23 detained pending sentencing.

24 Anything further?

25 MS. BEDELL: Nothing from the government,

1 Your Honor.

2 MS. RIGBY: No, Your Honor.

3 THE COURT: All right. Counsel is excused.

4 The defendant is remanded.

5 The Court will stand in recess.

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7 Time: 3:22 p.m.

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I certify that the foregoing is a true and
accurate transcription of my stenographic notes.

/s/
Rhonda F. Montgomery, CCR, RPR